IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2573 OF 2006

Alkesh Khimji Shah .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.Uday Warunjikar for applicant

Ms.M.H.Mhatre, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 29th September 2006.

P.C.

. The applicant is apprehending arrest in connection with C.R.No.255 of 2006 registered at Panvel City Police Station for offences punishable under section 498A and 306 read with

34 I.P.C.

2. The complainant, who is respondent No.2, is wife of the applicant. Application for enlarging the applicant on pre-arrest bail was rejected by the trial court on 3rd July 2006.

3. The applicant moved this court and an order was passed by this Court on 10th July 2006 directing the respondent No.1 not to arrest the applicant.

4. This order has been continued till date because the applicant and the complainant were negotiating for an over all settlement. At one stage, at the instance of parties I had placed the matter in my chambers whereat certain without prejudice proposals were made and apparently, there appeared to be a genuine desire to settle the matter.

5. However, prolonged meetings and negotiations have failed, according to Mr.Warunjikar. In the meanwhile, pursuant to the statement recorded by this Court, the applicant has deposited approximately 18.5 Tolas of gold and the same is kept in safe custody by the I.O. Panchanama is drawn in that behalf on 25th July 2006.

6. Upon taking instructions from the applicant and his parents Mr.Warunjikar states that they have no objection to this gold being returned to wife.

7. In my view, all such issues can be sorted out when the applicant appears before the regular court. Apart from considering the applicants application for enlarging him on bail, the trial court to also consider the request of complainant wife to hand over the gold to her and pass such orders as are permissible in law on both

applications.

8. In my view, interest of justice would be subserved if the ad-interim order granted on 10th July 2006 is continued for a period of two weeks from today to enable the applicant to apply for bail before the regular court. It is clarified that I have not expressed any opinion on the merits of the matter and it would be open for the applicant so also the prosecution to raise all such pleas as are permissible in law.

9. It is only because the application is pending since July 2006 and settlement talks were in progress that this order is passed. It is in these peculiar facts and circumstances that the protection granted to the applicant is extended further to enable the applicant to take appropriate steps. This order ought not to be treated as precedent in future cases. Application disposed of accordingly.

(S.C.Dharmadhikari, J)